

REMARKS

Claims 1-45 are pending and have all been rejected in this case. Applicant is amending claims 7, 21, 28, 35-38, and 43-45, and respectfully requests that the Examiner reconsider the application in view of the foregoing amendments and the following remarks.

Rejection under 35 U.S.C. § 112

On page 2 of the Office Action, the Examiner rejected claims 7, 21, 35, 37, 38, and 43 under 35 U.S.C. § 112, second paragraph.

Regarding claims 7 and 21, the Examiner indicated that "the composer's name" lacks antecedent basis. Applicant is amending claims 7 and 21 to recite "*a composer's name*" (emphasis added)

Regarding claims 35 and 43, the Examiner asserted that the phrase "certifying right of the player system" is not clear and does not make sense grammatically. Applicant is amending claims 35 and 43 to recite "*certifying rights of the player system*" (emphasis added).

Regarding claims 37 and 38, the Examiner asserted that it is not clear how a method step of receiving a musical work file is achieved by a CD player or a network communication interface. Applicant is amending claims 37 and 38 to recite that a CD drive or a network communication interface transmits a musical work file. Amended claims 37 and 38 recite respectively: "The method of claim 36 comprising the further step of transmitting said musical work file by a CD drive," and "The method of claim 36 comprises the further step of transmitting said musical work file by a network communications interface."

Rejection under 35 U.S.C. § 103(a)

On page 3 the Examiner rejected claims 1-45 under 35 U.S.C. § 103(a) as unpatentable over U.S. patent No. 5, 589,947 to *Sato et al*, which, as the Examiner correctly indicated, discloses a karaoke system. Applicant respectfully traverses.

Claims 1-27 of the invention relate to *generating* a music work file *from which a player system performs or produces sound* (page 17, lines 1-4). In contrast, the *Sato* karaoke system reproduces (or produces) music and video of music pieces (*Sato*, abstract). That is, the *Sato* karaoke system generates sound from a sound source, which is totally different from a sound-source (music work file) generator of the claimed invention. Therefore, claims 1-27 are patentably distinguished from *Sato*.

Amended independent claim 28 recites in relevant part: "A player system that can receive and play downloadable-in-real-time musical data, comprising:

an input terminal for receiving a musical work file containing downloadable-in-real-time topology information, downloadable-in-real-time music sequence data, and a sound bank including at least one downloadable-in-real-time instrument sound;

a synthesizer capable of adding downloadable-in-real-time sounds, said synthesizer being coupled to the input terminal for processing the music sequence data based on the topology information and the sound bank"

Independent claims 36, 44, and 45 recite corresponding limitations. The player system of the claimed invention is thus in many aspects patently distinguished from *Sato*. The player system itself can receive and play downloadable-in-real-time sounds because "player system 740 operates in conjunction with [an] operating system . . . for loading and unloading sounds from data storage device 235" (page 17, line 21 through page 18, line 2). The

claimed player system 740, which is part of player client 125 (FIG. 7), is on one side of computer network 120 (FIG. 1). Data storage device 235, which is part of composer server 110 (FIG. 2), is on another side of computer network 120 (FIG. 1). Consequently, data from data storage device 235 is "downloadable" through network 120 to player system 740. Further, data in storage device 235 can be represented by work links 630, which is downloadable "in real time" (page 15, lines 12-15). Therefore data in storage device 235 is downloadable-in-real-time.

Topology information, sequence data, and a sound bank contained in a musical work file of the claimed invention are also downloadable in real time. Topology information (page 14, lines 16-18) is downloadable. Further, this download can be done "*during performance of the musical work*" (page 14, lines 14-18, emphasis added), which is "real time." Therefore, topology information is downloadable in real time. Additionally, "... *topology changes as part of raw musical data 330* ..." (page 19, line 6, emphasis added) supports that topology information is downloadable in real time because raw musical data 330 stored in data storage device 235, which, as discussed above, is downloadable in real time.

Music sequence data (FIG. 6, item 615), part of downloadable-in-real-time raw musical data 330 (FIG. 6), is downloadable-in-real-time.

Sound bank 250 includes work linked sounds (page 11, lines 2 and 3) linked by "work links" 630 (FIG. 6, item 630) or instrument sounds from locations referenced by the work links 630 (page 17, lines 12-15). Because work links are part of downloadable-in-real-time raw musical data 330, work links are downloadable in real time. Therefore, the sound bank includes "downloadable-in-real-time sounds."

Synthesizer 815 can add instrument sounds from sound bank 250 (page 17, lines 10-14). As discussed above, instrument sounds from sound bank 250 are

downloadable in real time. Therefore, the claimed synthesizer 815 is "capable of adding downloadable-in-real-time instrument sounds."

Because the claimed player system of the invention can receive downloadable-in-real-time sound data, the player system allows for "*modification of an infinite variety of custom instrument or non-instrument sounds*" (page 4, lines 11-13, emphasis added) immediately or during music playback. In contrast, the *Sato* karaoke system is a "fixed" system and *Sato* does not teach, suggest, or make obvious downloadable-in-real time sound data that enables flexibility (through modification) and customization. The *Sato* karaoke system receives musical information that has been recorded on an optical memory disk in OMDD 3 (col. 5, lines 17-19). Those skilled in the art will recognize that once the information is recorded on an optical disk, the information is inflexible. The note file, words file, and PCM files of *Sato*, recorded on the OMDD, are also inflexible.

Sato MIDI controller 2 reads information from OMDD 3 (col. 5, lines 52-53), which cannot add downloadable-in-real-time data. Therefore, *Sato* MIDI controller 2 is patently different from the synthesizer of the claimed invention.

For the above differences, each independent claim 28, 36, 44, and 45 is patently distinguished from *Sato*, and therefore is patentable. Dependent claims 27-35 and 37-43, depending from claims 28 and 36 respectively, are therefore patentable for at least the same reasons.

SUMMARY

In conclusion, Applicants respectfully request that the Examiner withdraw the rejections of the pending claims and pass the application to issue. If the Examiner has questions regarding this case, the Examiner is invited to contact Applicant's undersigned attorney.

Respectfully submitted,

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